

HB0789



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB0789

by Rep. Michael J. Madigan

SYNOPSIS AS INTRODUCED:

65 ILCS 5/8-11-6

from Ch. 24, par. 8-11-6

Amends the Home Rule Municipal Use Tax Act in the Illinois Municipal Code. Makes a technical change in a Section authorizing the imposition of the tax.

LRB099 04602 AWJ 24630 b

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Municipal Code is amended by
5 changing Section 8-11-6 as follows:

6 (65 ILCS 5/8-11-6) (from Ch. 24, par. 8-11-6)

7 Sec. 8-11-6. Home Rule Municipal Use Tax Act.

8 (a) The ~~The~~ corporate authorities of a home rule
9 municipality may impose a tax upon the privilege of using, in
10 such municipality, any item of tangible personal property which
11 is purchased at retail from a retailer, and which is titled or
12 registered at a location within the corporate limits of such
13 home rule municipality with an agency of this State's
14 government, at a rate which is an increment of 1/4% and based
15 on the selling price of such tangible personal property, as
16 "selling price" is defined in the Use Tax Act. In home rule
17 municipalities with less than 2,000,000 inhabitants, the tax
18 shall be collected by the municipality imposing the tax from
19 persons whose Illinois address for titling or registration
20 purposes is given as being in such municipality.

21 (b) In home rule municipalities with 2,000,000 or more
22 inhabitants, the corporate authorities of the municipality may
23 additionally impose a tax beginning July 1, 1991 upon the

1 privilege of using in the municipality, any item of tangible
2 personal property, other than tangible personal property
3 titled or registered with an agency of the State's government,
4 that is purchased at retail from a retailer located outside the
5 corporate limits of the municipality, at a rate that is an
6 increment of 1/4% not to exceed 1% and based on the selling
7 price of the tangible personal property, as "selling price" is
8 defined in the Use Tax Act. Such tax shall be collected from
9 the purchaser either by the municipality imposing such tax or
10 by the Department of Revenue pursuant to an agreement between
11 the Department and the municipality.

12 To prevent multiple home rule taxation, the use in a home
13 rule municipality of tangible personal property that is
14 acquired outside the municipality and caused to be brought into
15 the municipality by a person who has already paid a home rule
16 municipal tax in another municipality in respect to the sale,
17 purchase, or use of that property, shall be exempt to the
18 extent of the amount of the tax properly due and paid in the
19 other home rule municipality.

20 (c) If a municipality having 2,000,000 or more inhabitants
21 imposes the tax authorized by subsection (a), then the tax
22 shall be collected by the Illinois Department of Revenue when
23 the property is purchased at retail from a retailer in the
24 county in which the home rule municipality imposing the tax is
25 located, and in all contiguous counties. The tax shall be
26 remitted to the State, or an exemption determination must be

1 obtained from the Department before the title or certificate of
2 registration for the property may be issued. The tax or proof
3 of exemption may be transmitted to the Department by way of the
4 State agency with which, or State officer with whom, the
5 tangible personal property must be titled or registered if the
6 Department and that agency or State officer determine that this
7 procedure will expedite the processing of applications for
8 title or registration.

9 The Department shall have full power to administer and
10 enforce this Section to collect all taxes, penalties and
11 interest due hereunder, to dispose of taxes, penalties and
12 interest so collected in the manner hereinafter provided, and
13 determine all rights to credit memoranda or refunds arising on
14 account of the erroneous payment of tax, penalty or interest
15 hereunder. In the administration of and compliance with this
16 Section the Department and persons who are subject to this
17 Section shall have the same rights, remedies, privileges,
18 immunities, powers and duties, and be subject to the same
19 conditions, restrictions, limitations, penalties and
20 definitions of terms, and employ the same modes of procedure as
21 are prescribed in Sections 2 (except the definition of
22 "retailer maintaining a place of business in this State"), 3
23 (except provisions pertaining to the State rate of tax, and
24 except provisions concerning collection or refunding of the tax
25 by retailers), 4, 11, 12, 12a, 14, 15, 19, 20, 21 and 22 of the
26 Use Tax Act, which are not inconsistent with this Section, as

1 fully as if provisions contained in those Sections of the Use
2 Tax Act were set forth herein.

3 Whenever the Department determines that a refund shall be
4 made under this Section to a claimant instead of issuing a
5 credit memorandum, the Department shall notify the State
6 Comptroller, who shall cause the order to be drawn for the
7 amount specified, and to the person named, in such notification
8 from the Department. Such refund shall be paid by the State
9 Treasurer out of the home rule municipal retailers' occupation
10 tax fund.

11 The Department shall forthwith pay over to the State
12 Treasurer, ex officio, as trustee, all taxes, penalties and
13 interest collected hereunder. On or before the 25th day of each
14 calendar month, the Department shall prepare and certify to the
15 State Comptroller the disbursement of stated sums of money to
16 named municipalities, the municipality in each instance to be
17 that municipality from which the Department during the second
18 preceding calendar month, collected municipal use tax from any
19 person whose Illinois address for titling or registration
20 purposes is given as being in such municipality. The amount to
21 be paid to each municipality shall be the amount (not including
22 credit memoranda) collected hereunder during the second
23 preceding calendar month by the Department, and not including
24 an amount equal to the amount of refunds made during the second
25 preceding calendar month by the Department on behalf of such
26 municipality, less 2% of the balance, which sum shall be

1 retained by the State Treasurer to cover the costs incurred by
2 the Department in administering and enforcing the provisions of
3 this Section. The Department, at the time of each monthly
4 disbursement to the municipalities, shall prepare and certify
5 to the Comptroller the amount so retained by the State
6 Treasurer, which shall be transferred into the Tax Compliance
7 and Administration Fund. Within 10 days after receipt by the
8 State Comptroller of the disbursement certification to the
9 municipalities provided for in this Section to be given to the
10 State Comptroller by the Department, the State Comptroller
11 shall cause the orders to be drawn for the respective amounts
12 in accordance with the directions contained in that
13 certification.

14 Any ordinance imposing or discontinuing any tax to be
15 collected and enforced by the Department under this Section
16 shall be adopted and a certified copy thereof filed with the
17 Department on or before October 1, whereupon the Department of
18 Revenue shall proceed to administer and enforce this Section on
19 behalf of the municipalities as of January 1 next following
20 such adoption and filing. Beginning April 1, 1998, any
21 ordinance imposing or discontinuing any tax to be collected and
22 enforced by the Department under this Section shall either (i)
23 be adopted and a certified copy thereof filed with the
24 Department on or before April 1, whereupon the Department of
25 Revenue shall proceed to administer and enforce this Section on
26 behalf of the municipalities as of July 1 next following the

1 adoption and filing; or (ii) be adopted and a certified copy
2 thereof filed with the Department on or before October 1,
3 whereupon the Department of Revenue shall proceed to administer
4 and enforce this Section on behalf of the municipalities as of
5 January 1 next following the adoption and filing.

6 Nothing in this subsection (c) shall prevent a home rule
7 municipality from collecting the tax pursuant to subsection (a)
8 in any situation where such tax is not collected by the
9 Department of Revenue under this subsection (c).

10 (d) Any unobligated balance remaining in the Municipal
11 Retailers' Occupation Tax Fund on December 31, 1989, which fund
12 was abolished by Public Act 85-1135, and all receipts of
13 municipal tax as a result of audits of liability periods prior
14 to January 1, 1990, shall be paid into the Local Government Tax
15 Fund, for distribution as provided by this Section prior to the
16 enactment of Public Act 85-1135. All receipts of municipal tax
17 as a result of an assessment not arising from an audit, for
18 liability periods prior to January 1, 1990, shall be paid into
19 the Local Government Tax Fund for distribution before July 1,
20 1990, as provided by this Section prior to the enactment of
21 Public Act 85-1135, and on and after July 1, 1990, all such
22 receipts shall be distributed as provided in Section 6z-18 of
23 the State Finance Act.

24 (e) As used in this Section, "Municipal" and "Municipality"
25 means a city, village or incorporated town, including an
26 incorporated town which has superseded a civil township.

1 (f) This Section shall be known and may be cited as the
2 Home Rule Municipal Use Tax Act.

3 (Source: P.A. 98-1049, eff. 8-25-14.)